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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,924	12/19/2001	Francis Emmerson	042933/306334	8863

826 7590 01/09/2007

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EXAMINER

SAGER, MARK ALAN

ART UNIT

PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/020,924

Applicant(s)

EMMERSON ET AL.

Examiner

M. A. Sager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2006 and 27 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/5/06, 12/27/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

*Allowable Subject Matter*

1. The indicated allowability of claims 1-16 is withdrawn in view of the newly discovered or reconsidered reference(s) to Media Maaketeingu Syst KK, Fujioka and Bandai Co Ltd.

Rejections based on the newly cited reference(s) follow.

*Claim Rejections - 35 USC § 102*

2. Regarding claim language scope/interpretation, sending one or more selected gaming parameters fails to preclude sending an entire gaming parameters set of a selected character or team. As disclosed within instant substitute specification (last complete paragraph bottom page 2), the training data includes any algorithm or any other form of data that is designed to be applied to gaming parameters so as to change certain attributes of the gaming parameters which appears to include conventional seasonal updates of player characteristics/stats, [i.e. consider John Madden Football series, or Tony LaRossa Baseball series, etc. that provide seasonal updates of player stats]. Thus, although not a rejection/holding herein, a terminal connected to server storing seasonal player/team characteristic/statistic updates for downloading player/team characteristics/statistics to update game play parameters appears to render claims unpatentable.

3. Claims 1-3, 6-12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Media Maaketeingu Syst KK (JP 11-019337), hereafter Nobuaki. Based upon review of translated reference and reconsideration of its teachings thereby, Nobuaki discloses a networking gaming system and portable game machine that includes method, client-server system, gaming device and computer program product on a terminal/server teaching all steps/features of cited claims including games content (ROM 8 stores game content) of a mobile phone (fig. 3, ref 4) comprising gaming parameters including character type parameters (paragraph 9 and 12),

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sending one or more selected gaming parameters from the mobile phone by wireless transmission signals to a remote server (abstract, paragraphs 6, 9, and 12-14, figs. 1-7, esp. 1-3), at the server and outside control of a user of the mobile phone, applying training data that includes an algorithm to the one or more selected gaming parameters to provide a modified parameter set in which selected gaming parameters is modified (paragraph 14 and 18), sending the games content of the mobile phone using the modified parameter set so as to modify play of a game by a user of the mobile phone from play of the game before sending the one or more selected gaming parameters (paragraph 14 and 18). Further, from the disclosure, the cordless handset of Nobuaki appears to be functioning as a handheld games console in that a game program is loaded or downloaded into the handset for playing a game viewed on the handset.

***Claim Rejections - 35 USC § 103***

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nobuaki in view of Fujioka et al (6270402). Nobuaki discloses claimed method (sic) except a team. However, a game involving a team, team play or forming a team is notoriously well known (by Official Notice) such as in a sport simulation [i.e. John Madden Football games, Tony LaRossa Baseball games]. Fujioka discloses a video game device and control method teaching a game involving a team, team play or forming a team that involves gaming parameters (abstract, 1:51-2:48, 11:65-15:8, figs. 1-21). Thus, it would have been obvious to an artisan at a time prior to the invention to add a team as notoriously well known or as taught by Fujioka to Nobuaki to provide increase enjoyment for those players with preference for team play/sports or team competition.

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5. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nobuaki in view of Ng. Alternatively, where a cordless handset is not a games console or personal computer, Nobuaki discloses a gaming device (sic) except a games console or personal computer (clm 11) or wired (clm 13). A personal computer or a games console is notoriously well known (by Official Notice) [i.e. Atari, Nintendo GameBoy, Nintendo Entertainment System (NES) or Super NES or Nintendo 64 or Sony PlayStation for gaming consoles or IBM or Apple or Hewlett Packard or Bell for personal computers] for permitting games to be played from memory medium read by a games console connected to a television or monitor. It would have been obvious to an artisan at a time prior to the invention to add a games console as notoriously well known to Nobuaki so as to increase accessibility for game play such as for those player whom may have a games console, but not a mobile phone. Further, Ng discloses a gaming device including a personal computer (1:66-2:610, 8:31-11:10, fig. 1B, ref. 27) connected to a server where gaming parameters and updated gaming parameters are transmitted by signals through wired networks for remotely connecting to a server (3:56-4:9). Also regarding wired, there is only two forms of communication, i.e. wired or wireless. Although, Nobuaki discloses wireless communication, the manner of communication does not teach away from claimed invention of communication being wired when an artisan considers the art at a time prior to the invention as a whole. Thus, it would have been obvious to an artisan at a time prior to the invention to add a games console or personal computer and wired as notoriously well known or as taught by Ng to Nobuaki so as to increase accessibility since some player/users prefer or have access to play on PCs or games consoles over wired networks.

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6. Claims 1-3 and 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bandai (JP 11-192384) in view of Nobuaki/ Media Maaketeingu Syst KK (JP 11-019337), hereinafter, Nobuaki. Based upon review of translated references and reconsideration of its teachings as recited in translation of decision of rejection and translation of rejection reasons for application 2001-379138 incorporated herein only with respect to providing partial translation of Bandai reference, Bandai discloses a raising simulation device using network that includes method, client-server system, gaming device and computer program product on a terminal/server teaching all steps/features of cited claims including sending parameters to server to implement a network event outside the control of the user/player but lacks a mobile phone (claims 1-6), the server applying training data to the one or more selected gaming parameters to provide a modified parameter set (claims 1-16) and modifying the game contents of the mobile phone using the modified parameter set so as to modify play of a game by a user of the mobile phone from play of the game before sending the one or more selected gaming parameters (claims 1-13 and 16), where altering play of claim 7 and changing characteristics of play of claim 16 are deemed analogous/same/similar in scope of modifying the games content step of claim 1 and although Bandai states the server updates gaming character at server out of control of user/player, there is no discussion regarding the particular gaming parameters (claims 1-16).

Nobuaki discloses a networking gaming system and portable game machine that includes method, client-server system, gaming device and computer program product on a terminal/server teaching all steps/features of cited claims including games content (ROM 8 stores game content) of a mobile phone (fig. 3, ref 4) for increased accessibility for those players with cordless handset comprising gaming parameters including character type parameters (paragraph 9 and 12)

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for increasing character attributes, sending one or more selected gaming parameters from the mobile phone by wireless transmission signals to a remote server (abstract, paragraphs 6, 9, and 12-14, figs. 1-7, esp. 1-3), at the server and outside control of a user of the mobile phone, applying training data that includes an algorithm to the one or more selected gaming parameters to provide a modified parameter set in which selected gaming parameters is modified (paragraph 14 and 18), sending the games content of the mobile phone using the modified parameter set so as to modify play of a game by a user of the mobile phone from play of the game before sending the one or more selected gaming parameters (paragraph 14 and 18). Further, the cordless handset of Nobuaki appears to be functioning as a handheld games console in that a game program is loaded or downloaded into the handset for playing a game viewed on the handset. Thus it would have been obvious to an artisan at a time prior to the invention to add mobile phone, gaming parameters, the server applying training data to the one or more selected gaming parameters to provide a modified parameter set and modifying the game contents of the mobile phone using the modified parameter set so as to modify play of a game by a user of the mobile phone from play of the game before sending the one or more selected gaming parameters as taught by Nobuaki to Bandai so as to increase accessibility to user/player who prefer or have access to cordless handset, to provide a character [stat] building paradigm as conventional in games (i.e. fantasy, sports, adventure games) and to provide uncertainty and excitement due to server control of gaming character modification.

7. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bandai in view of Nobuaki as applied to claim 3 above, and further in view of Fujioka. Bandai in view of Nobuaki discloses claimed method (supra) except team. However, a game involving a team,

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team play or forming a team is notoriously well known (by Official Notice) such as in a sport simulation [i.e. John Madden Football games, Tony LaRossa Baseball games]. Fujioka discloses a video game device and control method teaching a game involving a team, team play or forming a team that involves gaming parameters (abstract, 1:51-2:48, 11:65-15:8, figs. 1-21). Thus, it would have been obvious to an artisan at a time prior to the invention to add a team as notoriously well known or as taught by Fujioka to Bandai in view of Nobuaki to provide increase enjoyment for those players with preference for team play/sports or team competition.

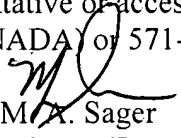
### *Conclusion*

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. A. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
M.A. Sager  
Primary Examiner  
Art Unit 3712

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